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GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-196662

Mr. Urban C. Fuerst
RR # 2 Box 269A
Delphos, Ohio 45835

JAN 16 1980

Dear Mr. Fuerst:

This is in response to your letter asking if there are federal regulations prohibiting the use of federal and state vehicles for private use.]

Section 638a(c)(2) of title 31 of the United States Code, provides:

(c) Unless otherwise specifically provided, no appropriation available for any department shall be expended--

(2) for the maintenance, operation and repair of any Government-owned passenger motor vehicle or aircraft not used exclusively for official purposes; and "official purposes" shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on out-patient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department concerned. Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft, or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month, and shall be suspended for a longer period or summarily removed from office if circumstances warrant. The limitations of this paragraph shall not apply to any motor vehicles or aircraft for official use of the President, the heads of the executive departments enumerated in section 101 of Title 5, ambassadors, ministers, charges d'affaires, and other principal diplomatic and consular officials.



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The above provision specifically recognizes the well-established rule that a Federal government employee must bear the cost of daily travel between his home and place of employment. 25 Comp. Gen. 844, 846 (1946). In construing the general prohibition against use of government vehicles for home to work transportation, we have recognized that its primary purpose is to prevent use of government vehicles for the personal convenience of employees. 54 Comp. Gen. 855, 857 (1975). On the other hand, we have held that 638a(c)(2) is not violated, where the use of the vehicle is deemed to be in the government's interest. 54 Comp. Gen. at 857; 25 Comp. Gen. at 847. In this connection, we have found that control over the use of government vehicles primarily is a matter of administrative discretion to be exercised by the agency concerned within the framework of applicable laws. 54 Comp. Gen. at 857; 25 Comp. Gen. at 847. However, in cases where we have permitted government vehicles to be used in transportation of employees to and from work, extenuating or emergency circumstances were involved. B-183617 (Aug. 2, 1976).

Federal laws pertaining to use of government vehicles for private use do not apply to States. You would have to check with the State or States you are interested in to see what prohibitions might apply. However, we have held that section 638a(c)(2) would not apply to vehicles purchased by Federal grantees who are States with their grant monies, because once granted, the funds belong to the States and are subject to State prohibitions only. See 55 Comp. Gen. 348, 351 (1975); 43 Comp. Gen. 697, 699-700 (1964).

We hope we have answered your question.

Sincerely yours,

Rollee H. Efros

Mrs. Rollee Efros
Assistant General Counsel